

R E M A R K S

Claims 13 to 21 remain pending in this case. Claims 1, 4, 5 and 8 to 12 have been canceled¹⁾ as indicated in the Listing of Claims set forth in Appendix I of this paper.

In light of the foregoing and the attached it is respectfully requested that

- the rejection of Claims 1, 4, 5 and 12 under 35 U.S.C. §102(b) as being anticipated by the teaching of *Kurfürst et al.* (US 5,663,141),
- the rejection of Claims 1 to 5 and 7 to 12 under 35 U.S.C. §103(a) as being rendered obvious by the teaching of *Kurfürst et al.* when taken in view of the disclosure of *Maraganore et al.* (US 5,256,559), *De Rosa et al.* (US 5,723,576) and *Fischer et al.* (Kidney Int. 56(Supp 72), 46-50 (1999)), and
- the rejection of Claims 1, 4, 5 and 8 to 12 under 35 U.S.C. §102(b) as being anticipated by the teaching of *Bucha et al.* (CA 2,369,096 and DE 199 15 862),

be withdrawn.

Claims 13 to 21 which remain pending in the application were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by the teaching of *Bucha et al.* (CA 2,369,096 and DE 199 15 862).

It is indicated on the face of the Canadian *Bucha et al.* reference that the document was published on October 19, 2000²⁾. The corresponding German application was published on October 12, 2000, as evidenced by the attached copy of the cover sheet of the German application and the data set forth in No. (43) thereof³⁾.

Applicants herewith submit certified English language translations of

- EP application No. 00105867.6, filed on March 20, 2000, and
- U.S. provisional application Serial No. 60/190,103, filed on March 20, 2000,

priority of which is claimed in the present case under 35 U.S.C. §119(a)-(d) and (f), and under 35 U.S.C. §119(e).

1) Claim 7 was canceled by applicants in their reply dated September 22, 2003 (Date of the Certificate of Mailing).

2) Note No. (87) where the date of the PCT publication is specified.

3) No. (43) indicates the "Offenlegungstag" which translates to "publication day".

In light of the foregoing and the attached neither the Canadian nor the German disclosure of *Bucha et al.* constitute prior art to applicants' invention within the provisions of 35 U.S.C. 102(b). Withdrawal of the respective rejection is, therefore, respectfully solicited.

To the extent necessary to perfect the claim to priority, applicants have ordered a translation of the certified copy of the priority documents. The translation will be submitted to the Examiner without delay as soon as it becomes available to obviate the rejection based on the disclosure of *Bucha et al.*

The Examiner has not raised any further issues, and the application is therefore deemed to be in condition for allowance. Early action is solicited.

REQUEST FOR EXTENSION OF TIME:

It is respectfully requested that a one month extension of time be granted in this case. A check for the \$110.00 fee is attached.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account No. 11.0345. Please credit any excess fees to such deposit account.

Respectfully submitted,

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Encl.: THE LISTING OF CLAIMS (Appendix I)

Cover pages of *WO 00/61121* and *DE 199 15 862*

Certified translation of EP application No. 00105867.6

Certified translation of U.S. application Serial No. 60/190,103

HBK/BAS